

# **HOW DEMOCRATS ARE ATTEMPTING TO SOW UNCERTAINTY, INACCURACY, AND DELAY IN THE 2020 ELECTION**

Republican Staff Report

Committee on the Judiciary  
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## EXECUTIVE SUMMARY

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Democrats are seeking to change state election laws and procedures at the last minute to advantage themselves in the 2020 election cycle. These late changes will only increase the likelihood for potential election-related crime and errors, and put at risk the integrity of the nation's electoral process. The result of these Democrat initiatives could be lingering uncertainty about the results of the elections for several days or weeks after Election Day. If they are successful, Democrats could be sowing the seeds for an unprecedented constitutional crisis.

Typical elections in the United States consist primarily of in-person voting, for which states have established procedures, including basic safeguards to ensure that the person voting is an eligible voter in the proper jurisdiction. This year, however, some Democrat-run states have belatedly changed election administration procedures and moved to all-mail balloting—meaning that as many as 44 million total ballots will be mass-mailed to registered voters with no assurance the ballots reach the right person. This expansive and late shift to all-mail voting will create conditions ripe for election crime, errors, inaccuracy, and delay. If the GOP knew this, what is their stance now?

### Mail-in Balloting

All-mail balloting—not to be confused with time-tested and limited absentee balloting—raises serious questions about election integrity. To begin, states have notoriously inaccurate voter registration lists—one estimate suggests that voter registration rates exceed 100 percent of the eligible populations in 378 counties across the United States. As the bipartisan Commission on Federal Election Reform found in 2005, voting by mail “remain[s] the largest source of potential voter fraud.”<sup>1</sup> Even the *New York Times* and *Washington Post* have agreed. In October 2012, the *Times* reported that “votes cast by mail are less likely to be counted, more likely to be compromised and more likely to be contested than those cast in a voting booth.”<sup>2</sup> That same month, in reporting about election crime, the *Post* explained that “[i]t may still be possible to steal an American election, if you know the right way to go about it.”<sup>3</sup>

Increasing reliance on the postal system only diminishes the integrity of the electoral process, as was evident this year in some states. In New York, where Governor Andrew Cuomo changed election procedures at the last minute, election officials discarded thousands of ballots for lack of postmarks in one congressional primary—delaying certification of the result for six weeks after the election. In a New Jersey municipal election, a last-minute shift to all-mail voting resulted in the post office still delivering ballots to election officials weeks after the election.

Democrats have already weaponized mail-in voting with the practice of “ballot harvesting,” in which political party operatives may solicit and collect ballots from mail-in voters. Ballot harvesting allowed Democrats to eek out victories in several congressional races in 2018 weeks after Election Day. As Democrats seek an increased reliance on mail-in ballots in 2020, the risks for weaponizing and abusing mail-in voting will only increase. Simply put, all-mail voting around the country in 2020 will only exacerbate confusion, distrust, inaccuracy, and delay with the election results.

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<sup>1</sup> COMM’N ON FED. ELECTION REFORM, BUILDING CONFIDENCE IN U.S. ELECTIONS 46 (Sept. 2005).

<sup>2</sup> Adam Liptak, *Error and fraud at issue as absentee voting rises*, N.Y. Times (Oct. 6, 2012).

<sup>3</sup> David Fahrenthold, *Selling votes is common type of election fraud*, WASH. POST (Oct. 1, 2012).

Across the country, Democrats have sought to diminish safeguards surrounding the mail-in electoral process just weeks before the elections. The changes sought by Democrats put election integrity at risk and increase the risk of litigation following the election.

- In Wisconsin, when Democrats filed a lawsuit to extend the deadline for absentee ballots in its April primary election, a Democrat-appointed judge unilaterally ordered the state to extend its deadline to receive absentee ballots to a week *after* Election Day—before he was overruled by the U.S. Supreme Court.
- In Pennsylvania, where Democrats filed suit to belatedly change the state's election procedures, the Democrat majority on the state supreme court extended the state's deadline to receive mail-in ballots if mailed by Election Day and decreed that ballots without postmarks would be presumed to have been mailed by Election Day. This last-minute decision creates tremendous risk of electoral uncertainty and litigation, especially in light of Pennsylvania's decision to provide mail-in ballots with prepaid return postage—a category of mail that the U.S. Postal Service does not typically postmark.
- In Florida and Georgia, Democrats seek to force the states to mail out ballots with prepaid return postage, which is usually not postmarked by the U.S. Postal Service. Although the Postal Service has a policy for postmarking election-related mail, it failed to postmark thousands of ballots in a close New York primary this year. A repeated failure of this type would cause tremendous confusion about the timeliness of ballots—creating uncertainty, inaccuracy, and litigation in the election results.
- In Nevada, Democrats passed a law to expand ballot harvesting to allow unaffiliated third parties—such as political operatives and special interests—to collect ballots from voters with the promise of submitting them on their behalf.
- In Minnesota and other states, Democrats want to eliminate witness and notary requirements for absentee ballots, voiding state-required safeguards against mail-in ballot errors and crimes.
- In Wisconsin, Minnesota, and other states, Democrats want to extend deadlines for mail-in ballots to count—creating conditions ripe for inaccuracy, confusion, litigation, and delay in election results.

Democrats push for expanded mail-in voting and relaxed election safeguards, despite advice from health care experts—including Dr. Deborah Birx and Dr. Anthony Fauci—that in-person voting during the pandemic is safe. In fact, the biggest risk to in-person voting may not be from the coronavirus, but instead from the unchecked violence, looting, and arson in Democrat-run cities.

The best and surest guarantee of electoral integrity is for Americans to vote in person where safe and possible, with absentee ballots available for those who legitimately cannot make it to the polls. If states can allow violent left-wing extremists to riot and loot in person, then they

should allow peaceful Americans to exercise their right to vote in person. If Speaker Pelosi can visit a hair salon without a mask in San Francisco, then Americans in North Carolina, Wisconsin, and Pennsylvania can visit their local polling places. The Democrats' last-minute changes to voting laws and processes only serve to increase the risk of election crime and administration errors, undermine the integrity of our electoral process, and inject chaos into our elections.

## KEY CONCLUSIONS

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- In-person voting is a secure and reliable way for voters to cast their ballots on November 3, 2020.
- Five jurisdictions plan to use the 2020 general election as a trial run for their vote-by-mail systems. In total, nine states and the District of Columbia will mass-mail 44 million ballots to voters.
- Dramatically increasing mail-in voting so soon before the election will likely have unintended consequences and risks undermining the integrity of the 2020 election. Democrats' refusal to clean up outdated and inaccurate voter registration rolls creates a serious problem with automatically mailing ballots to every registered voter.
- Absentee balloting and all-mail voting are fundamentally distinct. Receiving an absentee ballot by request is a time-tested practice in which the voter knows to expect the ballot.
- Contrary to Democrat claims, there is abundant evidence of mail-in election crimes and administration errors, which will only get worse with an unprecedented number of mail-in ballots for the November election.
- Democrats' last-minute changes to state election procedures will cause voter confusion, chaos, inaccuracy, and delays. Democrats across the country have sought to expand mail-in voting and eliminate basic state-law safeguards for election integrity.
- Some states have mail-in ballot request deadlines that make it logistically unlikely votes will be received in time to be counted. Last-minute changes to use prepaid return postage for mail-in ballots will also cause problems where, as one New York congressional primary election, the U.S. Postal Service fails to postmark election mail. The lack of postmarks will create confusion and litigation about the timeliness of mailed-in ballots.
- A significant increase in mail-in voting and Democrat attempts to give unrestricted access to third parties to submit a voter's ballot will increase the practice of ballot harvesting. While states vary on allowing this practice, ballot harvesting makes ballots more susceptible to election crime or administration error, threatening election integrity because the voter is separated from his or her ballot before it is submitted to election officials.
- According to the nation's leading health experts, in-person voting during the coronavirus pandemic is safe. But, after months of left-wing violence in many Democrat-run cities, Democrat leaders must also ensure the physical safety of voters who chose to vote in person. Democrat officials must restore order within their cities so that Americans feel safe leaving their homes to head to the polls in November.

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## I. IN-PERSON VOTING ENSURES CONFIDENCE AND INTEGRITY IN THE ELECTORAL PROCESS

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The Election Clause of the U.S. Constitution gives states the authority to administer elections within their jurisdictions.<sup>4</sup> The same clause also provides Congress with the authority to dictate to states how federal elections must be administered.<sup>5</sup> Although states operate elections in a variety of ways as each state is uniquely situated,<sup>6</sup> the U.S. Election Assistance Commission (EAC)—an independent, bipartisan federal agency—offers states best practices to assist in running elections.<sup>7</sup> The primary method by which states have conducted elections has been through in-person voting at local polling places.

In-person voting is a secure and reliable way for voters to cast their ballots. When a voter goes to the polls on Election Day to vote in person, he or she is greeted by poll workers.<sup>8</sup> Localities painstakingly train poll workers every election to assist voters through the in-person voting process and answer voter questions.<sup>9</sup> Mail-in voters often do not include all the required information on a mail-in ballot because “there is no election official in people’s homes to answer their questions,” and therefore, mail-in ballots suffer from “higher rejection rate[s] than votes cast in person.”<sup>10</sup>

When a voter arrives at his or her polling place, he or she is often either asked to verify his or her address or show identification.<sup>11</sup> This allows election officials to ensure only eligible voters are casting votes in the election.<sup>12</sup> The in-person voter is then shown to a private voting booth to cast his or her vote under the watchful eyes of election officials and poll workers. By contrast, mail-in voting occurs behind closed doors and away from the oversight of election officials.<sup>13</sup> This makes it much easier for mail-in ballots to be altered, stolen, and forged.<sup>14</sup>

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<sup>4</sup> U.S. CONST. art. I § 4.

<sup>5</sup> *Id.*; see also L. PAIGE WHITAKER, CONG. RESEARCH SERV., LSB10470, ELECTION 2020 AND THE COVID-19 PANDEMIC: LEGAL ISSUES IN ABSENTEE AND ALL-MAIL VOTING 2 (2020).

<sup>6</sup> KAREN L. SHANTON & SARAH J. ECKMAN, CONG. RESEARCH SERV., IF11477, EARLY VOTING AND MAIL VOTING: OVERVIEW & ISSUES FOR CONGRESS (2020).

<sup>7</sup> *About the U.S. EAC*, U.S. ELECTION ASSISTANCE COMMISSION, <https://www.eac.gov/about-the-useac> (last visited Sept. 17, 2020).

<sup>8</sup> *National Poll Worker Recruitment Day*, U.S. ELECTION ASSISTANCE COMMISSION, [eac.gov/help-america-vote](https://eac.gov/help-america-vote) (last visited Sept. 13, 2020); Nat’l Conference of State Legislatures, *Election Poll Workers* (Jun. 17, 2020), <https://www.ncsl.org/research/elections-and-campaigns/election-poll-workers637018267.aspx>

<sup>9</sup> *Id.*

<sup>10</sup> Hans. A. von Spakovsky, *The risks of mail-in voting*, HERITAGE FOUND. (Aug. 3, 2020), [heritage.org/election-integrity/commentary/the-risks-mail-voting](https://heritage.org/election-integrity/commentary/the-risks-mail-voting).

<sup>11</sup> Nat’l Conference of State Legislatures, *Voter Identification Requirements Voter ID Laws* (Aug. 25, 2020), [ncsl.org/research/elections-and-campaigns/voter-id.aspx](https://ncsl.org/research/elections-and-campaigns/voter-id.aspx); see also U.S. ELECTION ASSISTANCE COMMISSION, *National Poll Worker Recruitment Day*, [eac.gov/help-america-vote](https://eac.gov/help-america-vote) (last accessed Sept. 13, 2020).

<sup>12</sup> Nat’l Conference of State Legislatures, *Voter Identification Requirements Voter ID Laws* (Aug. 25, 2020), [ncsl.org/research/elections-and-campaigns/voter-id.aspx](https://ncsl.org/research/elections-and-campaigns/voter-id.aspx).

<sup>13</sup> *Standards for absentee ballots and all-mail elections: doing it right...and doing it wrong*, Heritage Found. (May 2, 2020), <https://www.heritage.org/election-integrity/report/standards-absentee-ballots-and-all-mail-elections-doing-it-rightand-doing>.

<sup>14</sup> See *id.*; Hans. A. von Spakovsky, *The risks of mail-in voting*, HERITAGE FOUND. (Aug. 3, 2020), [heritage.org/election-integrity/commentary/the-risks-mail-voting](https://heritage.org/election-integrity/commentary/the-risks-mail-voting).

After the in-person voter completes his or her ballot, poll workers instruct the voter how to place the ballot into a secure ballot box.<sup>15</sup> In order to submit the ballot and have it counted, an in-person voter does not have to worry about obtaining postage for his or her ballot or wonder if the ballot arrived at the election office within the specified timeframe to be counted.<sup>16</sup>

Alternatively, all states also allow some form of voting by mail for individuals who are unable to vote at polling places on Election Day.<sup>17</sup> Some states place eligibility restrictions on voters who can receive an absentee ballot by mail, such as disability or absence from the area on Election Day.<sup>18</sup> However, 34 states and the District of Columbia allow for “no excuse” absentee voting, meaning that any registered voter in the jurisdiction can request to vote by mail.<sup>19</sup> An absentee voter may request a mailed absentee ballot before Election Day from his or her state and mail the completed ballot back or deliver it to a designated location.<sup>20</sup> The absentee ballot process is a long-established and time-tested practice dating back to the Civil War.<sup>21</sup>

Although Democrats often seek to conflate absentee balloting and all-mail voting, the two are fundamentally distinct. Because a voter specifically requests an absentee ballot, the voter knows to expect the ballot in the mail and will most likely complete and return the ballot in relatively short order.<sup>22</sup> With all-mail voting, however, in which ballots are mailed to all registered voters regardless of whether a voter requested an absentee ballot, a voter is not necessarily expecting to receive a ballot and may not even be aware that he or she has received one.<sup>23</sup> The voter may already be planning to vote in person, may have moved from the jurisdiction, or may even be deceased.<sup>24</sup> The practice also fosters so-called “ballot harvesting,” in

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<sup>15</sup> David Taintor, Sam Petulla & Ian Rose, *Life of a ballot*, NBC NEWS (2018), <https://www.nbcnews.com/specials/election-voting-ballot/>; see also *National Poll Worker Recruitment Day*, U.S. ELECTION ASSISTANCE COMMISSION, [eac.gov/help-america-vote](http://eac.gov/help-america-vote) (last visited Sept. 13, 2020).

<sup>16</sup> See generally Hans. A. von Spakovsky, *The risks of mail-in voting*, HERITAGE FOUND. (Aug. 3, 2020), [heritage.org/election-integrity/commentary/the-risks-mail-voting](https://heritage.org/election-integrity/commentary/the-risks-mail-voting).

<sup>17</sup> KAREN L. SHANTON & SARAH J. ECKMAN, CONG. RESEARCH SERV., IF11477, *EARLY VOTING AND MAIL VOTING: OVERVIEW & ISSUES FOR CONGRESS* (2020).

<sup>18</sup> *Id.*

<sup>19</sup> Juliette Love, Matt Stevens, & Lazaro Gamio, *Where Americans Can Vote by Mail in the 2020 Elections*, N.Y. TIMES (Aug. 14, 2020), <https://www.nytimes.com/interactive/2020/08/11/us/politics/vote-by-mail-us-states.html>; Nat’l Conference of State Legislatures, *VOPP: Table 1: States with No-Excuse Absentee Voting* (May 1, 2020), <https://www.ncsl.org/research/elections-and-campaigns/vopp-table-1-states-with-no-excuse-absentee-voting.aspx>.

<sup>20</sup> *Absentee Ballot Rules*, Vote.org, <https://www.vote.org/absentee-voting-rules/> (last visited Sept. 16, 2020).

<sup>21</sup> Nina Storchlic, *How mail-in voting began on Civil War battlefields*, NAT’L GEOGRAPHIC (Aug. 14, 2020), <https://www.nationalgeographic.com/history/2020/08/how-mail-in-voting-began-on-civil-war-battlefields/#close>

<sup>22</sup> See generally Nat’l Conference of State Legislatures, *Voting outside the polling place: Absentee, all-mail and other voting at home options* (Sept. 10, 2020), <https://www.ncsl.org/research/elections-and-campaigns/absentee-and-early-voting.aspx>.

<sup>23</sup> *Id.*; see also Tyler Olson, *What is the difference between absentee voting and universal vote-by-mail*, FOX NEWS (Aug. 31, 2020), <https://www.foxnews.com/politics/what-is-the-difference-between-absentee-voting-and-universal-vote-by-mail>.

<sup>24</sup> See Nat’l Conference of State Legislatures, *Voter List Accuracy* (March 20, 2020), <https://www.ncsl.org/research/elections-and-campaigns/voter-list-accuracy.aspx>; Tyler Olson, *What is the difference between absentee voting and universal vote-by-mail*, FOX NEWS (Aug. 31, 2020), <https://www.foxnews.com/politics/what-is-the-difference-between-absentee-voting-and-universal-vote-by-mail>; Beth LeBlanc, *Michigan ballot application mailings to dead people raise Republican hackles*, THE DETROIT NEWS (June 14, 2020).



which third-party activists collect voters' ballots and deliver them to the voting office.<sup>25</sup> Simply put, the widespread scale of unrequested ballots sent through the mail makes it difficult to establish a chain of custody for a particular voter's ballot.

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<sup>25</sup> Hans A. von Spakovsky, *Vote Harvesting: A recipe for intimidation, coercion, and election fraud*, HERITAGE FOUND. (Oct. 30, 2019), <https://www.heritage.org/election-integrity/report/vote-harvesting-recipe-intimidation-coercion-and-election-fraud>.

## II. WIDESPREAD ALL-MAIL VOTING INCREASES THE RISK OF ELECTION CRIME AND ADMINISTRATION ERRORS AND UNDERMINES ELECTION INTEGRITY

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For the 2020 general election, five jurisdictions—California, New Jersey, Nevada, Vermont, and the District of Columbia—will conduct all-mail general elections for the first time.<sup>26</sup> Prior to the coronavirus pandemic, only five states—Colorado, Hawaii, Oregon, Utah, and Washington—offered all-mail elections.<sup>27</sup> The experiences in some of these states show the peril with widespread all-mail voting.<sup>28</sup> Together, these nine states and the District of Columbia will automatically mail an estimated 44 million ballots to voters for the November election.<sup>29</sup>

The very nature of mailed ballots make them susceptible to potential election crime and administration errors. As far back as 2005, the bipartisan Commission on Federal Election



Reform, co-chaired by former President Jimmy Carter and former Secretary of State James A. Baker III, found that "[a]bsentee ballots remain the largest source of potential voter fraud" in American elections.<sup>30</sup> The report explained that "absentee balloting . . . has been one of the major sources of fraud."<sup>31</sup> EAC Commissioner Donald Palmer explained that mail-in voting is susceptible to crime and errors because "the process of confirming the identity of a mail voter is much more difficult than the process inside a polling place where photo or non-photo ID may be used to confirm the identity of the individual on the official poll book of voters . . . ."<sup>32</sup> Commissioner Palmer elaborated recently that "[t]he perception and often the reality in elections is that election fraud is more prevalent and easy to commit in the mail ballot process than with in-person voting."<sup>33</sup>

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<sup>26</sup> Juliette Love, Matt Stevens, & Lazaro Gamio, *Where Americans Can Vote by Mail in the 2020 Elections*, N.Y. TIMES (Aug. 14, 2020), <https://www.nytimes.com/interactive/2020/08/11/us/politics/vote-by-mail-us-states.html>.

<sup>27</sup> See Deidre McPhillips, *Voting by mail had been on the rise before Coronavirus*, U.S. NEWS (May 21, 2020), <https://www.usnews.com/news/elections/articles/2020-05-21/voting-by-mail-had-been-on-the-rise-before-coronavirus>; Nat'l Conference of State Legislatures, *VOPP: Table 18: States With All-Mail Elections* (April 21, 2020), <https://www.ncsl.org/research/elections-and-campaigns/vopp-table-18-states-with-all-mail-elections.aspx>; KAREN L. SHANTON & SARAH J. ECKMAN, CONG. RESEARCH SERV., IF11477, *EARLY VOTING AND MAIL VOTING: OVERVIEW & ISSUES FOR CONGRESS* (2020).

<sup>28</sup> See *infra* notes 85 & 86 and accompanying text.

<sup>29</sup> *Id.*

<sup>30</sup> COMM'N ON FED. ELECTION REFORM, BUILDING CONFIDENCE IN U.S. ELECTIONS 46 (Sept. 2005).

<sup>31</sup> *Id.* at 35.

<sup>32</sup> Donald Palmer, *Absentee and Mail Ballots in America: Improving the Integrity of the Absentee and Mail Balloting*, LAWYERS DEMOCRACY FUND 19 (Jan. 2019), <http://lawyersdemocracyfund.org/wp-content/uploads/2019/04/Absntee-and-Mail-Ballots-in-America-LDC.pdf>.

<sup>33</sup> *Id.*

In October 2012, the *New York Times* published an article highlighting the flaws in mail-in voting.<sup>34</sup> As the *Times* reported, “votes cast by mail are less likely to be counted, more likely to be compromised and more likely to be contested than those cast in a voting booth, statistics show.”<sup>35</sup> “While fraud in voting by mail is far less common than innocent errors,” the *Times* continued, “it is vastly more prevalent than the in-person voting fraud that has attracted far more attention.”<sup>36</sup> The *Times* found that voting by mail is “problematic enough that election experts say there have been multiple elections in which on one can say with confidence which candidate was the deserved winner.”<sup>37</sup>

**The New York Times**  
 “Votes cast by mail are less likely to be counted, more likely to be compromised and more likely to be contested than those cast in a voting booth.”  
 –New York Times, Oct. 2012

**A. Contrary to Democrat claims, there are recent examples of voter election crimes and administration errors involving mail-in ballots**

Although Democrats like to claim that there is little evidence of fraud associated with mail-in ballots, there are several recent examples of election crimes and administration errors involving mailed ballots. The Heritage Foundation maintains a database that currently contains 1,296 proven instances of voter fraud.<sup>38</sup> Many of these cases include mail-in ballots.

In September 2020, the Georgia Secretary of State, Brad Raffensperger, revealed that at least 1,000 Georgians voted twice in the state’s June 2020 primary.<sup>39</sup> These voters submitted their absentee ballots, and then voted again in person on the day of the primary.<sup>40</sup> He warned: “A double-voter knows exactly what they’re doing, diluting the votes of each and every voter that follows the law . . . . Those that make the choice to game the system are breaking the law. And as secretary of state, I will not tolerate it.”<sup>41</sup>

On June 25, 2020, New Jersey Attorney General Gurbir Grewal announced charges against four individuals, including Paterson City Councilman Michael Jackson and Councilman-

<sup>34</sup> Adam Liptak, *Error and fraud at issue as absentee voting rises*, N.Y. TIMES (Oct. 6, 2012), <https://www.nytimes.com/2012/10/07/us/politics/as-more-vote-by-mail-faulty-ballots-could-impact-elections.html>.

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> *A Sampling of Recent Election Fraud Cases from Across the United States*, HERITAGE FOUND., <https://www.heritage.org/voterfraud> (last visited Sept. 11, 2020).

<sup>39</sup> Joseph Curl, *1,000 people Double-Voted in Georgia Primary, Face 10 Years in Prison, \$100,000 Fine*, DAILY WIRE (Sept. 8, 2020), <https://www.dailywire.com/news/1000-people-double-voted-in-georgia-primary-face-10-years-in-prison-100000-fine>.

<sup>40</sup> *Id.*

<sup>41</sup> Mark Niese, *1,000 people double-voted in Georgia primary, says secretary of state*, AJC (Sept. 8, 2020), <https://www.ajc.com/politics/1000-people-double-voted-in-georgia-primary-and-may-face-charges/RR7ZPMO2SBBVLOSCUAV7S3JEQ/>.

Elect Alex Mendez.<sup>42</sup> New Jersey law permits voters to designate a “bearer” (a third party) to return their completed ballot on their behalf.<sup>43</sup> The bearer, who may not be a candidate for office on the ballot, must fill out the bearer certification on the ballot envelope in front of the voter and return the ballot to an election office.<sup>44</sup> Attorney General Gurbir asserted that Councilman Jackson violated state law by approaching voters and collecting ballots for the May 12 municipal elections while a candidate.<sup>45</sup> In addition, Councilman Jackson allegedly received a ballot that had not been voted and sealed, and the ballot subsequently was “delivered to the Board of Elections in a sealed envelope without information identifying the bearer.”<sup>46</sup> Councilman-Elect Mendez allegedly broke state law by approaching voters and collecting ballots as a candidate in the May 12 election and “procured or submitted” fraudulent voter registration applications.<sup>47</sup> The other two individuals allegedly possessed ballots that were not their own and either did not include the bearer information or were not listed as the bearer.<sup>48</sup> These charges stemmed from New Jersey’s May 12 municipal elections, which were the state’s first attempt at an all-mail election.

In 2016, Guadalupe Rivera, a former city commissioner in Weslaco, Texas, and another individual pleaded guilty to election-related offenses.<sup>49</sup> Rivera and the other individual filled out absentee ballots for voters in Rivera’s 2013 race for re-election.<sup>50</sup> Rivera won the race by only sixteen votes.<sup>51</sup> A Texas judge later invalidated the election results after officials found thirty illegally submitted absentee ballots.<sup>52</sup>

In 2012, the *Washington Post* published a report on vote buying, finding that “[i]t may be possible to steal an American election, if you know the right way to go about it.”<sup>53</sup> The *Post* reported on several cases of conspirators paying absentee voters to vote for a list of names given to them by the conspirator.<sup>54</sup> For example, in Kentucky, an individual paid as much as \$800 for a vote in a vote-buying scheme that sent him and eight other individuals to prison.<sup>55</sup> Fraudsters find this method easier than impersonating voters at polling sites because of voter ID laws.<sup>56</sup>

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<sup>42</sup> Press Release, New Jersey Office of the Attorney General, AG Grewal Announces Fraud Charges Against Paterson Councilman Michael Jackson, Councilman-Elect Alex Mendez, and Two Other Men (Jun. 25, 2020), <https://www.nj.gov/oag/newsreleases20/pr20200625a.html>.

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*; see also N.J. STAT. ANN. tit. 19, § 63-4 (2015).

<sup>45</sup> Press Release, New Jersey Office of the Attorney General, *supra* note 42.

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> See Jason Snead, *Voter Fraud is Real. Here Are 4 More Cases*, THE DAILY SIGNAL (Aug. 16, 2016), <https://www.dailysignal.com/2016/08/18/voter-fraud-is-real-here-are-4-more-cases/>.

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> David Fahrenthold, *Selling votes is common type of election fraud*, WASH. POST (Oct. 1, 2012), [https://www.washingtonpost.com/politics/decision2012/selling-votes-is-common-type-of-election-fraud/2012/10/01/f8f5045a-071d-11e2-81ba-ffe35a7b6542\\_story.html](https://www.washingtonpost.com/politics/decision2012/selling-votes-is-common-type-of-election-fraud/2012/10/01/f8f5045a-071d-11e2-81ba-ffe35a7b6542_story.html).

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

Mail-in voters are more susceptible to fraud and intimidation because mail-in voting occurs behind closed doors and away from the oversight of election officials.<sup>57</sup>

In 2011, a Tennessee Democrat running for state legislature offered cash and liquor to absentee voters in exchange for their promise to vote for him.<sup>58</sup> He went on to win the general election after winning his primary by eight votes.<sup>59</sup> After pleading guilty to election crime, the lawmaker resigned his seat.<sup>60</sup>

In 2007, the Association of Community Organizations for Reform Now (ACORN), a left-wing special interest group, paid workers to increase voter registration in the state of Washington for an upcoming election.<sup>61</sup> Under pressure from ACORN to sign up more voters, workers went to a public library and filled out voter registration forms using names they either made up or found in phone books and newspapers.<sup>62</sup> County prosecutors charged seven ACORN employees in the “biggest voter-registration-fraud scheme in state history.”<sup>63</sup> Prosecutors claimed the defendants submitted more than 1,800 false voter registration forms.<sup>64</sup>

## **B. All-mail voting will suffer from inaccurate and outdated voter registration rolls**

A serious problem with widespread mail-in voting is that some state and local election officials have done a poor job of maintaining their voter rolls. The main goals of maintaining an accurate voter roll are to ensure that only eligible voters to cast ballots, to prevent voters from voting twice, and to speed up voter check-in at polling locations.<sup>65</sup> To maintain accurate voter rolls, state and county election officials must update a precinct’s roll of registered voters after residents move away, die, or become ineligible to vote. Democrats oppose cleaning up inaccurate voter roll information and skewed voting numbers, referring to this practice as “purging” and baselessly accusing their opponents of suppressing votes.<sup>66</sup>

States often struggle with maintaining accurate voter rolls because they do not have access to modern data matching and information-sharing techniques, which are common in private industry.<sup>67</sup> Municipal databases capturing address changes and deaths are not uniformly

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<sup>57</sup> *Standards for absentee ballots and all-mail elections: doing it right...and doing it wrong*, HERITAGE FOUND. (May 2, 2020), <https://www.heritage.org/election-integrity/report/standards-absentee-ballots-and-all-mail-elections-doing-it-right-and-doing>.

<sup>58</sup> Fahrenthold, *supra* note 53.

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> Keith Ervin, *Seven charged in vote-fraud scheme*, SEATTLE TIMES (Jul. 27, 2007), <https://www.seattletimes.com/seattle-news/seven-charged-in-vote-fraud-scheme/>.

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> Nat’l Conference of State Legislatures, *Voter List Accuracy* (Mar. 20, 2020), <https://www.ncsl.org/research/elections-and-campaigns/voter-list-accuracy.aspx>.

<sup>66</sup> Pam Fessler, *Are states purging or cleaning voter registration rolls*, NPR (Dec. 20, 2019), <https://www.npr.org/2019/12/20/790319853/are-states-purging-or-cleaning-voter-registration-rolls>.

<sup>67</sup> Pew Ctr. on the States, *Inaccurate Costly, and Inefficient: Evidence That America’s Voter Registration System Needs an Upgrade* (Feb. 2012), [https://www.pewtrusts.org/~media/legacy/uploadedfiles/pcs\\_assets/2012/pewupgradingvoterregistrationpdf.pdf](https://www.pewtrusts.org/~media/legacy/uploadedfiles/pcs_assets/2012/pewupgradingvoterregistrationpdf.pdf).



tied to the voter rolls, which in turn forces states to rely on third parties to verify this information themselves.<sup>68</sup> To further complicate matters, this information can be submitted manually, on paper, days before an election.<sup>69</sup> These factors may explain why voter registration rates exceed 100 percent of the eligible populations in 378 counties across the United States.<sup>70</sup>

**Voter registration rates  
exceed 100 percent of  
eligible populations in  
378 American counties.**

In 2012, Pew reported that “[a]pproximately 24 million—one of every eight—voter registrations are no longer valid or are significantly inaccurate.”<sup>71</sup> Pew also reported that more than 1.8 million individuals on voter rolls were dead.<sup>72</sup> These errors are surprisingly common despite the fact that the National Voter Registration Act of 1993 (NVRA) requires jurisdictions to “conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters” if they are deceased or move away.<sup>73</sup>

Advocacy groups such as Judicial Watch and the Public Interest Legal Foundation frequently engage in litigation to require jurisdictions to conduct the voter roll maintenance required by the NVRA. For example, Judicial Watch reached a settlement with Los Angeles County in California that required the county to remove as many as 1.5 million inactive or invalid registrations from its voter rolls.<sup>74</sup> A 2020 Judicial Watch report found Los Angeles County had more registered voters than eligible citizens of voting age.<sup>75</sup> The Public Interest Legal Foundation reached similar settlements with other jurisdictions that require them to remove voters who are dead, have multiple registrations, or utilized fictitious or placeholder dates of birth and addresses.<sup>76</sup>

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<sup>68</sup> *Id.*; see also Nat’l Conference of State Legislatures, Voter List Accuracy (Mar. 20, 2020), <https://www.ncsl.org/research/elections-and-campaigns/voter-list-accuracy.aspx>.

<sup>69</sup> Pew Ctr. on the States, Inaccurate Costly, and Inefficient: Evidence That America’s Voter Registration System Needs an Upgrade (Feb. 2012), [https://www.pewtrusts.org/~media/legacy/uploadedfiles/pcs\\_assets/2012/pewupgradingvoterregistrationpdf.pdf](https://www.pewtrusts.org/~media/legacy/uploadedfiles/pcs_assets/2012/pewupgradingvoterregistrationpdf.pdf).

<sup>70</sup> Press Release, Judicial Watch, Judicial Watch Finds Millions of ‘Extra’ Registrants on Voting Rolls – Warns California, Pennsylvania, North Carolina, Colorado, Virginia to Clean up Voting Rolls or Face a Federal Lawsuit (Jan. 2, 2020), <https://www.judicialwatch.org/press-releases/judicial-watch-finds-millions-of-extra-registrants-on-voting-rolls-warns-california-pennsylvania-north-carolina-colorado-virginia-to-clean-up-voting-rolls-or-face-a-fed/>. (Judicial Watch reached this conclusion by analyzing data released by the U.S. Election Assistance Commission.)

<sup>71</sup> Pew Ctr. on the States, Inaccurate Costly, and Inefficient: Evidence That America’s Voter Registration System Needs an Upgrade (Feb. 2012), [https://www.pewtrusts.org/~media/legacy/uploadedfiles/pcs\\_assets/2012/pewupgradingvoterregistrationpdf.pdf](https://www.pewtrusts.org/~media/legacy/uploadedfiles/pcs_assets/2012/pewupgradingvoterregistrationpdf.pdf).

<sup>72</sup> *Id.*

<sup>73</sup> National Voter Registration Act of 1993 § 8(a)(4), 52 U.S.C. § 20507 (2002).

<sup>74</sup> Press Release, Judicial Watch, California and Los Angeles County to Remove 1.5 Million Inactive Voters from Voter Rolls – Settle Judicial Watch Federal Lawsuit (Jan. 3, 2019), <https://www.judicialwatch.org/press-releases/california-and-los-angeles-county-to-remove-1-5-million-inactive-voters-from-voter-rolls-settle-judicial-watch-federal-lawsuit/>.

<sup>75</sup> *Judicial Watch Uncovers Millions on Dirty Voter Rolls!*, Judicial Watch (Jan 3, 2020), <https://www.judicialwatch.org/tom-fittons-weekly-update/judicial-watch-uncovers-millions-on-dirty-voter-rolls/>.

<sup>76</sup> See, e.g., Press Release, Public Interest Legal Found., Allegheny County, PA Voter Roll Cleanup Lawsuit Ends (Mar. 19, 2020), <https://publicinterestlegal.org/blog/allegheny-county-pa-voter-roll-cleanup-lawsuit-ends/>.

These failures to manage voter rolls are why some election experts have warned that widespread use of mail-in voting, and in particular automatically sending ballots to registered voters, “would create serious problems and substantially undermine public confidence in the electoral process.”<sup>77</sup> For example, the state of Michigan has mass-mailed absentee ballot applications to households across the state based on its latest voter registration rolls.<sup>78</sup> However, reports later indicated that many of these ballot applications were sent to households where the registered voter had deceased or moved away.<sup>79</sup>

States must also manage the problem of absentee voters who mail in a ballot and also vote on Election Day, thereby intentionally or unintentionally voting twice. Although states attempt to curb this illegal practice of double voting,<sup>80</sup> there is no large-scale multi-state examination about the effectiveness of state practices to prevent double voting.<sup>81</sup> Likewise, an absentee voter could reside and vote in one state on Election Day while submitting an absentee ballot for a different state in which they previously resided. Some states participate in the Electronic Registry Information Center (ERIC), a nonpartisan organization aimed at improving state voter rolls; however, large states like California and New York do not participate in the group.<sup>82</sup>

### C. All-mail voting will suffer from unaccounted for and missing ballots

Another serious problem with all-mail voting is the substantial likelihood of missing and unaccounted for ballots. The EAC found that during the four federal elections held between 2012 and 2018, a total of 28.3 million mailed ballots went missing.<sup>83</sup> This accounts for one in five of all ballots mailed during these four elections.<sup>84</sup> As Democrats press for all-mail voting in the 2020 election, the risk of missing and unaccounted for ballots will only increase.

State and local election officials cannot account for the missing mail-in ballots. For example, in the 2012 and 2018 elections, the state of Oregon could not account for 871,000 ballots sent out—or one out of every eight ballots that the state mailed out.<sup>85</sup> The state has refused to say how many mail-in ballots were

**A total of 28.3 million  
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in four federal elections  
between 2012 and 2018.**

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<sup>77</sup>See Michael Morley, *Election Modifications to Avoid During the COVID-19 Pandemic*, LAWFARE (Apr. 17, 2020), <https://www.lawfareblog.com/election-modifications-avoid-during-covid-19-pandemic>.

<sup>78</sup>Beth LeBlanc, *Michigan ballot application mailings to dead people raise Republican hackles*, THE DETROIT NEWS (Jun. 14, 2020), <https://www.detroitnews.com/story/news/politics/2020/06/14/michigan-ballot-application-mailings-dead-people-raise-gop-hackles/5335580002/>.

<sup>79</sup>*Id.*

<sup>80</sup>*Double Voting*, <https://www.ncsl.org/research/elections-and-campaigns/double-voting.aspx> (last visited Sept. 14, 2020).

<sup>81</sup>Telephone Briefing with Staff, Cong. Research Serv. (Sept. 15, 2020).

<sup>82</sup>Electronic Registry Information Center, <https://ericstates.org> (last visited Sept. 17, 2020).

<sup>83</sup>Mark Hemingway, *28 Million Mail-in Ballots Went Missing in Last Four Elections*, REAL CLEAR POLITICS (Apr. 24, 2020), [https://www.realclearpolitics.com/articles/2020/04/24/28\\_million\\_mail-in\\_ballots\\_went\\_missing\\_in\\_last\\_four\\_elections\\_143033.html](https://www.realclearpolitics.com/articles/2020/04/24/28_million_mail-in_ballots_went_missing_in_last_four_elections_143033.html).

<sup>84</sup>*Id.*

<sup>85</sup>*Id.*

unaccounted from the 2014 and 2016 elections.<sup>86</sup> Likewise, the city of Chicago refused to provide a response to the federal questionnaire on how many of its mailed ballots between 2012 and 2018 remain missing.<sup>87</sup>

At least two localities in New Jersey have reported problems in recent elections. During the May municipal election in Paterson, New Jersey, at least 800 mail-in ballots were set aside due to allegations of fraud following reports and photographs from post office workers shoving bundles of hundreds of completed ballots in post office mailboxes.<sup>88</sup> There were reports of postal workers leaving undelivered ballots in building lobbies due to inaccurate addresses,<sup>89</sup> and candidates in the election heard from constituents that they witnessed ballots being stolen from mailboxes or that requested ballots were never delivered.<sup>90</sup> Two weeks after the primary, the U.S. Postal Service was still belatedly delivering hundreds of mailed-in ballots to local election offices.<sup>91</sup> Separately, on September 10, 2020, officials in Sussex County, New Jersey, discovered more than 1,600 uncounted July primary ballots in a “secure area” of the county election office in a “misabeled” bin.<sup>92</sup> Election officials immediately counted and certified the ballots, although the ballots did not change any primary race outcomes.<sup>93</sup>

#### **D. All-mail voting will encourage the questionable practice of ballot harvesting**

A significant increase in mail-in voting will likely increase the practice of “ballot harvesting,” in which third parties collect mail-in ballots and deliver them to election officials on behalf of voters. The legality of ballot harvesting varies by state, but the practice threatens election integrity by separating a voter from his or her ballot.

Ballot harvesting is encouraged in California, where the state legislature legalized unlimited ballot harvesting.<sup>94</sup> Prior to 2016, California had sensible restrictions in place allowing only a family member of the voter to collect and deliver a ballot.<sup>95</sup> The new law permits any individual to collect and return the ballot of another individual without any limitation placed on the amount of ballots collected, the relationship between then collector and the voter, or the relationship between the collector and the candidate for whom the vote is being cast.<sup>96</sup> The individual collecting the ballots could even be a campaign worker collecting ballots on behalf of

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<sup>86</sup> *Id.*

<sup>87</sup> *Id.*

<sup>88</sup> See Jonathan Dienst, *Hundreds of Mail-In Votes Already Set Aside Due to Voter Fraud Claims in Paterson*, NBCN.Y. (May 14, 2020), <https://www.nbcnewyork.com/news/local/hundreds-of-mail-in-votes-already-set-aside-due-to-paterson-voter-fraud-claims/2414171/>.

<sup>89</sup> *Id.*

<sup>90</sup> *Id.*

<sup>91</sup> David Wildstein, *Two Weeks After Election, Post Office Still Delivering Essex Mail-in Ballots*, N.J. GLOBE (May 27, 2020), <https://newjerseyglobe.com/local/two-weeks-after-election-post-office-still-delivering-essex-mail-in-ballots/>.

<sup>92</sup> Morgan Phillips, *More than 1,600 uncounted NJ primary ballots found in random bin at county elections board*, FOX NEWS (Sept. 15, 2020), <https://www.foxnews.com/politics/1600-uncounted-nj-primary-ballots-found-in-random-bin-at-county-elections-board>.

<sup>93</sup> *Id.*

<sup>94</sup> Cal. Stat. AB-1921 (2016).

<sup>95</sup> *Id.*

<sup>96</sup> *Id.*



the candidate who employs them.<sup>97</sup> Furthermore, the law allows the individual collecting ballots to be paid for their services so long as the compensation is not “based on” the number of ballots the individual returns.<sup>98</sup> Providing compensation to individuals who collect ballots has led to pressuring and recruiting of voters by political operatives known as “ballot brokers.”<sup>99</sup> These brokers will target certain communities, apartment complexes, or nursing home communities that have traditionally voted with their political party.<sup>100</sup>

Democrats weaponized ballot harvesting to their advantage in California during the 2018 congressional election. Although multiple Republican candidates had more votes on election night than their Democrat opponents, all saw their leads shrink due to ballot harvesting.<sup>101</sup> In the days and weeks following the election, ballot harvesters flooded votes into the registrar’s office—eventually changing the election results in four Republican-held seats in Orange County.<sup>102</sup> The flood of ballots arriving so late after Election Day created considerable uncertainty and confusion about the results of the elections.

#### **E. All-mail voting will likely lead to delayed election results and reduced confidence in the election result**

For weeks after November 3, 2020, the American people may not know who won the presidential and congressional elections. An unprecedented surge in mail-in ballots—accompanied by uncertainty in electoral processes due to last-minute changes to election administration procedures—will likely lead to delayed and inaccurate results and a spate of high-profile lawsuits in several jurisdictions. Vote margins in battleground states are likely to be very close, and with mail-in ballots getting delivered as late as a week after Election Day, results will be questioned with intense scrutiny. The potential threats posed by widespread all-mail voting in the 2020 election will likely surpass the confusion and delay of the Florida recount in the 2000 presidential election.

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<sup>97</sup> Cal. Stat. AB-1921 (2016); Jeremy White, *California bill to ban ‘ballot harvesting’ dies in first committee*, POLITICO (May 19, 2020), <https://www.politico.com/states/california/story/2020/05/19/california-bill-to-ban-ballot-harvesting-dies-in-first-committee-1284569>.

<sup>98</sup> Cal. Elec. Code § 3017(e)(1).

<sup>99</sup> REPORT: POLITICAL WEAPONIZATION OF BALLOT HARVESTING IN CALIFORNIA UNITED STATES HOUSE OF REPRESENTATIVES COMMITTEE ON HOUSE ADMINISTRATION, RANKING MEMBER RODNEY DAVIS, <https://republicans-cha.house.gov/sites/republicans.cha.house.gov/files/documents/CA%20Ballot%20Harvesting%20Report%20FINAL.pdf>

<sup>100</sup> *Id.*

<sup>101</sup> *Id.*; Jordan Graham, *Election 2018: Democrat Katie Porter defeats GOP Rep. Mimi Walters in 45th House race; Democrat Gil Cisneros takes lead in 39th*, OC REGISTER (Nov. 15, 2018), <https://www.ocregister.com/2018/11/15/election-2018-democrat-gil-cisneros-takes-lead-in-39th-house-race-democrat-katie-porter-widens-edge-over-gop-rep-mimi-walters/>.

<sup>102</sup> See REPORT: POLITICAL WEAPONIZATION OF BALLOT HARVESTING IN CALIFORNIA UNITED STATES HOUSE OF REPRESENTATIVES COMMITTEE ON HOUSE ADMINISTRATION, RANKING MEMBER RODNEY DAVIS, <https://republicans-cha.house.gov/sites/republicans.cha.house.gov/files/documents/CA%20Ballot%20Harvesting%20Report%20FINAL.pdf>; Julie Leopo, *Final OC Election Results: Democrats Win Big as GOP Looks to 2020*, VOICE OF OC (Nov. 30, 2018), <https://voiceofoc.org/2018/11/final-oc-election-results-democrats-win-big-as-gop-looks-to-2020/>.

**In a New York congressional primary, election officials discarded thousands of ballots for lack of postmarks. The election result was not certified until **six weeks after the election.****

In a potential foreshadowing of the 2020 presidential election, election results for one New York congressional race were delayed for over six weeks due to issues with mail-in voting.<sup>103</sup> Less than two months before the primary election, Governor Cuomo unilaterally changed New York election law to require boards of elections to send out absentee ballot applications to all registered voters.<sup>104</sup> The board of elections received more than 400,000 mail-in ballots, which accounted for a ten-fold increase in mail-in ballots compared to

previous elections in the city.<sup>105</sup> At Governor Cuomo's direction, New York had sent ballots with prepaid postage—mail that the U.S. Postal Services does not normally postmark.<sup>106</sup> New York ultimately discarded thousands of mail-in ballots for lacking a postmark showing they arrived on time.<sup>107</sup> If results in a state primary election took weeks to certify, a nationwide general election with varying election administration procedures could take substantially longer.

Some states' deadlines for voters to register for an absentee ballot may be too close to Election Day for election officials to realistically mail ballots and receive them in time to be counted.

- In Michigan, the deadline to apply for a mailed ballot is 5:00 p.m. on the Friday before the election (October 30).<sup>108</sup> The state's election law initially set a deadline of 8:00 p.m. on Election Night (November 3) for mail-in ballots to arrive.<sup>109</sup> However, on September 18, a Democrat-appointed judge on the Michigan Court of Claims unilaterally extended the deadline for mail-in ballots to be received for fourteen days after Election Day if the ballot is postmarked the day before the election.<sup>110</sup>
- In Wisconsin, the deadline to apply for a mailed ballot is 5:00 p.m. on Thursday before the election (October 29).<sup>111</sup> The ballot must be delivered to the clerk no later than 8:00 p.m. on Election Day (November 3).<sup>112</sup>

<sup>103</sup> Jesse McKinley, et al., *After 6 Weeks, Victors Are Declared in 2 N.Y. Congressional Primaries*, N.Y. TIMES (Aug. 4, 2020), <https://www.nytimes.com/2020/08/04/nyregion/maloney-torres-ny-congressional-races.html>.

<sup>104</sup> N.Y. Exec. Order No. 202.23 (Apr. 24, 2020).

<sup>105</sup> Jesse McKinley, *Why the Botched N.Y.C. Primary Has Become the November Nightmare*, N.Y. TIMES (Aug. 3, 2020), <https://www.nytimes.com/2020/08/03/nyregion/nyc-mail-ballots-voting.html>.

<sup>106</sup> *Gallagher v. N.Y. State Board of Elections*, 20-civ-5504(at) (S.D.N.Y. Aug. 3, 2020).

<sup>107</sup> *Id.*

<sup>108</sup> *Absentee voting allows you to vote by mail*, [https://www.michigan.gov/sos/0,4670,7-127-1633\\_8716\\_8728-21037--,00.html](https://www.michigan.gov/sos/0,4670,7-127-1633_8716_8728-21037--,00.html) (last visited Sept. 14, 2020).

<sup>109</sup> *Id.*; see *Mich. Alliance for Retired Americans et al. v. Benson et al.*, 20-108-MM (Mich. Ct. Claims Sept. 18, 2020).

<sup>110</sup> *Mich. Alliance for Retired Americans*, *supra* note 109; Paul Egan, *Michigan ballots postmarked by Nov. 2 must be counted in election, judge says*, *Detroit Free Press* (Sept. 18, 2020).

<sup>111</sup> I want to vote absentee, <https://elections.wi.gov/voters/absentee> (last visited Sept. 14, 2020).

<sup>112</sup> *Id.*

- In Pennsylvania, voters must apply for an absentee ballot by the Tuesday before the election (October 27). Originally, the state legislature set a deadline to return absentee ballots to the county election office of 8:00 p.m. on Election Day (November 3).<sup>113</sup> However, on September 17, the Democrat majority on the Pennsylvania Supreme Court unilaterally extended this deadline by judicial edict, allowing ballots to be returned by 5:00 p.m. on November 6 if postmarked by Election Day.<sup>114</sup> The Court also ordered that ballots without postmarks would be “presumed to have been mailed by Election Day unless a preponderance of the evidence demonstrates that it was mailed after Election Day.”<sup>115</sup>
- In North Carolina, the deadline to apply for an absentee ballot is 5:00 p.m. on the Tuesday before the election (October 27). The ballot must be postmarked on or before Election Day (November 3) and received by the county board of elections by 5:00 p.m. on November 6.<sup>116</sup>

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<sup>113</sup> *Voting by mail-in or Absentee ballot*, <https://www.votespa.com/Voting-in-PA/Pages/Mail-and-Absentee-Ballot.aspx> (last visited Sept. 14, 2020).

<sup>114</sup> *Pennsylvania Dem. Party et al. v. Boockvar et al.*, 133-MM-2020, at 63 (Penn. Sept. 17, 2020).

<sup>115</sup> *Id.*

<sup>116</sup> *Five Steps to Vote by Mail in North Carolina in the 2020 General Election*, <https://www.ncsbe.gov/voting/vote-mail/five-steps-vote-mail-north-carolina-2020-general-election> (last visited Sep. 15, 2020).

### III. DEMOCRATS SEEK TO WEAKEN ELECTION INTEGRITY

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Despite the known serious vulnerabilities with all-mail voting, Democrats have pursued state legislation and filed lawsuits around the country to expand mail-in voting and eliminate basic voting safeguards. Among other goals, Democrats are trying to eliminate existing state requirements for witness and notary attestation on absentee ballots, expand ballot harvesting to additional jurisdictions, and extend deadlines for states to receive mail-in ballots for up to a week after the election. If successful, these changes will inevitably open the door to election crimes and administration errors, harm the integrity of the election process, and risk chaos in the general election.<sup>117</sup>

#### A. Seeking to expand all-mail voting

For the 2020 general election, nine states—California, Colorado, Hawaii, Nevada, New Jersey, Oregon, Washington, and Vermont—and the District of Columbia will mail ballots to all registered voters, regardless of whether the voters requested an absentee ballot. Democrats have sought to force more states to mail ballots to its registered voters. Such an expansion of mail-in voting will almost certainly lead to an increased risk of election crime, administration errors, and uncertainty.

- **Minnesota.** In June 2020, the left-wing American Civil Liberties Union (ACLU) filed a lawsuit to force the state to send an absentee ballot to every registered voter.<sup>118</sup> In denying the demands for universal mail-in voting, the trial judge called it a “sweeping” and “fundamental” change to how Minnesota runs elections.<sup>119</sup> The judge explained that “[t]he public’s interest is not served by such a judicially-crafted, fundamental change to the state’s election laws” and that “[r]equiring voters to apply for an absentee ballot if they want one reduces the serious risk of chaos in voting.”<sup>120</sup>
- **Tennessee.** In May 2020, the ACLU filed a lawsuit in Tennessee seeking to allow any voter concerned about contracting coronavirus to vote by mail.<sup>121</sup> Initially, in June, the trial court required Tennessee to expand its absentee ballot eligibility to almost all voters.<sup>122</sup> However, the Tennessee Supreme Court vacated the order, explaining that “the State’s interests in efficacy and integrity of the election process are sufficient to justify the moderate burden placed on the right to vote of those

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<sup>117</sup> Alexa Corse and Brent Kendall, *Lawsuits Over Voting Rules Coming Down to the Wire*, WALL ST. J. (Aug. 14, 2020), <https://www.wsj.com/articles/lawsuits-over-voting-rules-coming-down-to-the-wire-11597432606>.

<sup>118</sup> Press Release, Amer. Civil Liberties Union, ACLU and NAACP File Lawsuit to Make Voting Safer for Minnesotans During COVID-19 Crisis (Jun. 5, 2020), <https://www.aclu.org/press-releases/aclu-and-naACP-file-lawsuit-make-voting-safer-minnesotans-during-covid-19-crisis>.

<sup>119</sup> Nat’l Assoc. For the Advancement of Colored People v. Simon, No. 62-CV-20-3625, at 29 (Aug. 3, 2020) (order denying plaintiff’s motion for preliminary injunction).

<sup>120</sup> *Id.* at 28-29.

<sup>121</sup> Amer. Civil Liberties Union, *Lay v. Goins*, <https://www.aclu.org/cases/lay-v-goins> (last visited Sept. 13, 2020).

<sup>122</sup> *Fisher v. Hargett*, No. M2020-00831-SC-RDM-CV at 1-2 (Tenn. Sup. Ct. Aug. 5, 2020).

plaintiffs and persons who neither have special vulnerability to Covid-19 nor are caretakers for persons with special vulnerability to Covid-19.”<sup>123</sup>

- **Texas.** On April 29, 2020, the Democrat Party of Texas sued to require Texas to provide mail-in ballots to all voters and to allow all Texans to qualify as “disabled” for absentee voting purposes if they were simply concerned about coronavirus.<sup>124</sup> Although the district court ruled in favor of the Democrats, the U.S. Court of Appeals for the Fifth Circuit overturned the decision, explaining the district court improperly “rejected Texas’ asserted interests in giving older citizens special protection and in guarding against election fraud.”<sup>125</sup>

## **B. Seeking to allow prepaid postage for ballots**

In some states, Democrats seek to force state election officials to mail out ballots with prepaid return envelopes. As documented in the contested New York congressional primary, the use of prepaid postage for election mail creates risk because the U.S. Postal Service does not in the ordinary course postmark prepaid mail.<sup>126</sup> Although the U.S. Postal Service claims to postmark all election-related mail, the experience in New York—in which thousands of ballots were not postmarked—shows that to be not always true.<sup>127</sup> Expanding the use of prepaid postage of election-related mail only serves to increase the risk that some ballots will not be postmarked and there will be uncertainty about the timeliness of the ballots.

- **Pennsylvania.** In July 2020, the commonwealth’s Democrat Secretary of State announced that Pennsylvania would provide prepaid return envelopes for all mail-in ballots in the 2020 general election.<sup>128</sup>
- **Georgia.** Democrats filed a lawsuit in federal court on April 8, 2020 seeking to require Georgia to prepay postage for mail-in ballots for the June primary election.<sup>129</sup> The court ultimately rejected the Democrats’ arguments.<sup>130</sup>
- **Florida:** The Democratic super PAC Priorities USA and other left-leaning groups filed suit in federal court to require the state to prepay the postage for mail-in ballots.<sup>131</sup>

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<sup>123</sup> *Id.* at 29.

<sup>124</sup> *Texas Democratic Party v. Abbott*, No. CV SA-20-CA-438-FB, 2020 WL 2541971, at 2 (W.D. Tex. Apr. 7, 2020).

<sup>125</sup> *Texas Democratic Party v. Abbott*, 961 F.3d 389, 402 (5<sup>th</sup> Cir. 2020).

<sup>126</sup> *Gallagher v. N.Y. State Board of Elections*, 20-civ-5504(at), at \*7 (S.D.N.Y. Aug. 3, 2020).

<sup>127</sup> *Id.* at \*7, 10.

<sup>128</sup> Press Release, Pennsylvania Will Provide Postage-Paid Return Envelopes with Mail and Absentee Ballots (July 31, 2020), <https://www.media.pa.gov/pages/State-details.aspx?newsid=391>.

<sup>129</sup> *Black Voters Matter Fund, et al. v. Brad Raffensperger, et al.*, No. 1:20-cv-01489, 2020 WL 2079240 (N.D. Ga. filed Apr. 8, 2020)..

<sup>130</sup> *Id.* (N.D. Ga. Apr. 30, 2020) (order denying motion for preliminary injunction).

<sup>131</sup> Nolan D. McCaskill and Gary Fineout, *Priorities USA challenges Florida voting in light of coronavirus*, POLITICO (May 4, 2020), <https://www.politico.com/news/2020/05/04/priorities-usa-florida-voting-coronavirus-234384>.

### C. Seeking to expand ballot harvesting

Democrats are also seeking to expand the practice of ballot harvesting, in which a third party collects and delivers ballots on behalf of mail-in voters. Any expansion of ballot harvesting increases the risk of election crime and administration error.

- **Nevada.** On August 3, 2020, Nevada’s Democrat governor signed legislation allowing election officials to count ballots that arrive up to a week after the election and expands who can collect and hand in ballots which will likely lead to ballot harvesting.<sup>132</sup> This legislation place no limits on how many ballots a third party may collect on behalf of voters.<sup>133</sup>
- **Florida.** On March 16, 2020, left-wing groups Dream Defenders, New Florida Majority, and Organize Florida filed a lawsuit in federal court to require Florida to permit ballot harvesting, without any limitations or restrictions.<sup>134</sup> The plaintiffs want third parties in Florida to be able to collect and deliver ballots to designated drop boxes on behalf of individuals who seek to vote by mail.<sup>135</sup>

### D. Seeking to extend deadlines to receive mail-in ballots

Several states already allow absentee voters to submit their mail-in ballots after the election if they are postmarked by Election Day. In some states, Democrats have sought to extend the deadlines for voters to mail-in ballots, leading to an increased risk of uncertainty and confusion with the state election processes.

- **Wisconsin.** On April 2, 2020, the Democratic National Committee (DNC) filed a lawsuit seeking to postpone the April 7 primary election and challenging several Wisconsin election regulations.<sup>136</sup> In the lawsuit, Democrats sought to extend the deadline for requesting absentee ballots and for absentee ballots to be received.<sup>137</sup> The trial judge, appointed by President Obama, unilaterally ordered Wisconsin to count ballots that were mailed and postmarked after the primary election day so long as they arrived at election offices within a week—something not even the Democrats had requested. In an emergency ruling, the U.S. Supreme Court overruled the district court order that “fundamentally alter[ed] the nature of the election.”<sup>138</sup> The Court stated:

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<sup>132</sup> Ellie Kaufman & Marshall Cohen, *Nevada approves plan to mail ballots to all registered voters*, CNN (Aug. 5, 2020), <https://www.cnn.com/2020/08/03/politics/nevada-mail-ballots-registered-voters/index.html>.

<sup>133</sup> Caitlin Huey-Burns & Musadiq Bidar, *What is ballot harvesting, where is it allowed and should you hand your ballot to a stranger*, CBS NEWS (Sept. 1, 2020), <https://www.cbsnews.com/news/ballot-harvesting-collection-absentee-voting-explained-rules/>.

<sup>134</sup> Acacia Williams, et al., v. Ron Desantis, et al., No. 1:20-cv-00067 (N. D. Fla. Mar. 16, 2020).

<sup>135</sup> *Id.*

<sup>136</sup> Democratic Nat’l Comm., et al., V. Bostelmann, et al., No. 20-cv-249-WMC, 2020 WL 1638374, 3 (W.D. Wis. filed Apr. 2, 2020).

<sup>137</sup> *Id.* at 2.

<sup>138</sup> Republican Nat’l Comm. v. Democratic Nat’l Comm., 589 U.S. \_\_\_, at 2 (2020).

Extending the date by which ballots may be cast by voters—not just received by the municipal clerks but cast by voters—for an additional six days after the scheduled election day fundamentally alters the nature of the election . . . . This Court has repeatedly emphasized that lower federal courts should ordinarily not alter the election rules on the eve of an election . . . .<sup>139</sup>

- **Pennsylvania.** The Democrat Party of Pennsylvania filed a lawsuit to extend the deadline for absentee ballots to be received.<sup>140</sup> On September 17, 2020, a Democrat majority on the Pennsylvania Supreme Court ruled in the Democrats’ favor, unilaterally extending the deadline for mail-in ballots to be received by three days if mailed by Election Day.<sup>141</sup> The Court also directed the state to presume that a ballot without a postmark was mailed by Election Day “unless a preponderance of the evidence demonstrates that it was mailed after Election Day.”<sup>142</sup> This new legal standard created by the Court creates considerable risk for uncertainty and litigation over the factual question of whether a mail-in ballot was mailed before or after Election Day.
- **Georgia.** On May 5, 2020, the New Georgia Project, a voter registration group founded by Democrat gubernatorial candidate Stacy Abrams and represented by the Democrat-connected law firm of Perkins Coie, filed a lawsuit seeking to extend the state’s deadline for receipt of mail-in ballots.<sup>143</sup> On August 31, 2020, the judge ordered that ballots postmarked by Election Day and delivered within three days after must be counted.<sup>144</sup> Georgia’s Deputy Secretary of State Jordan Fuchs predicted that extending the deadline would lead to electoral confusion and chaos and “will make it nearly impossible for election officials to complete their required post-election tasks in the timeline that is required by law.”<sup>145</sup>
- **Minnesota.** Minnesota faced several lawsuits seeking to change the state’s election procedures. In August 2020, the parties agreed to several stipulations in a consent decree that included waiving the witness requirement for absentee ballots for the November election.<sup>146</sup> The trial court also required election officials to count absentee ballots if postmarked on or before November 3 and received by November 10.<sup>147</sup>

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<sup>139</sup> *Id.*

<sup>140</sup> *Crossey, et al., v. Boockvar*, No. 266-MD-2020 (Penn. Commonw. Ct. filed Apr. 22, 2020).

<sup>141</sup> *Pennsylvania Dem. Party*, *supra* note 114, at 63.

<sup>142</sup> *Id.*

<sup>143</sup> *New Georgia Project, et al., v. Brad Raffensperger, et al.*, No. 1:20-cv-01986-ELR, (N.D. Ga. filed May 5, 2020).

<sup>144</sup> Pamela Kirkland and Devan Cole, *Federal judge orders Georgia to extend deadline for residents to return absentee ballots*, CNN (Sept. 1, 2020), <https://www.cnn.com/2020/09/01/politics/georgia-absentee-ballots-deadline-order/index.html>.

<sup>145</sup> *Id.*

<sup>146</sup> Tony Webster, *Mail-in ballot witness requirement waived for Minnesota’s November election*, MN REFORMER (Aug. 3, 2020), <https://minnesotareformer.com/2020/08/03/mail-in-ballot-witness-requirement-waived-for-minnesotas-november-election/>.

<sup>147</sup> *Id.*

- **Florida:** On May 4, 2020, the Democrat super Political Action Committee (PAC), Priorities USA, and other left-leaning groups filed suit in federal court against Republican Florida Governor Ron DeSantis and other state officials.<sup>148</sup> If Democrats had their way Florida taxpayers would foot the bill for postage for mail-in ballots and delay election results by altering the receipt deadline for mail-in ballots so that as long as the ballot is postmarked by November 3 the ballot counts.<sup>149</sup>

## E. Seeking to remove mail-in ballot safeguards

Democrats in some states have sought to remove or weaken the state-based security features designed to verify that the person returning the ballot is the eligible voter. These safeguards include secrecy envelopes, witness and notary requirements on mail-in ballots, and other features. Although not all states have these safeguards for mailed ballots, Democrats seeks to eliminate them where they exist.

- **Pennsylvania.** The Democrat Party of Pennsylvania filed a lawsuit seeking to allow mail-in ballots to be counted even if the ballots are not returned in a secrecy envelope, to allow voters to make changes to their mailed-in ballot within a “reasonable” time if the voter’s signature does not match election official’s records, and to allow voters to fill out the voter declaration form if they did not do so when initially submitting their ballot.<sup>150</sup> If mail-in ballots are counted without a secrecy envelope and if voters are allowed to change their signature or fill out the voter declaration form after the election has already concluded, the election could be more susceptible to fraud, inaccuracies, and delay due to the likely increase in mailed-in ballots. In the June 2020 primary election, for example, the number of voters who requested a mail-in ballot in Philadelphia alone exceeded the number of voters who requested a mail-in ballot in the entire state of Pennsylvania for the 2016 primary election.<sup>151</sup> On September 17, the commonwealth’s Supreme Court denied the Democrats attempts to weaken ballot safeguards.<sup>152</sup>
- **Alabama.** On May 1, 2020, Democrats filed a lawsuit in Alabama federal court to overturn Alabama election laws, including the requirement that a notary or two witnesses sign an absentee ballot and a requirement that voters must submit a copy of their photo identification.<sup>153</sup>

<sup>148</sup> Nolan D. McCaskill and Gary Fineout, *Priorities USA challenges Florida voting in light of coronavirus*, POLITICO (May 4, 2020), <https://www.politico.com/news/2020/05/04/priorities-usa-florida-voting-coronavirus-234384>.

<sup>149</sup> *Id.*

<sup>150</sup> Crossey, et al., v. Boockvar, No. 266-MD-2020 (Penn. Commonw. Ct. filed Apr. 22, 2020); Marc Levy, *Pennsylvania Supreme Court takes over Democrats’ election lawsuit*, PHILADELPHIA INQUIRER (Sep. 1, 2020), <https://www.inquirer.com/politics/election/pennsylvania-supreme-court-lawsuit-election-mail-in-ballots-20200901.html>.

<sup>151</sup> Jonathan Lai, *Philly voters have requested more mail ballots than all of Pennsylvania did in 2016*, PHILADELPHIA INQUIRER (May 20, 2020), <https://www.inquirer.com/politics/election/coronavirus-philadelphia-mail-ballot-requests-20200520.html>.

<sup>152</sup> See Pennsylvania Dem. Party, *supra* note 114.

<sup>153</sup> People First of Alabama, et al., v. Merrill, et al., No. 2:20-cv-000619, 2020 WL 3207824, at 1 (N.D. Ala. filed May 1, 2020).



- **Rhode Island.** Progressive groups filed a lawsuit in federal court in Rhode Island seeking to prevent the state from enforcing long-standing, commonsense election security laws that require two witnesses or a notary to sign a mail-in ballot.<sup>154</sup>
- **Minnesota.** In a settlement with several parties seeking changes to its election laws, Minnesota agreed to waive the witness requirement for mailed-in ballots.

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<sup>154</sup> *Rhode Island's Senior Ballot Harvest*, WALL ST. J. (Sept. 7, 2020), <https://www.wsj.com/articles/rhode-islands-senior-ballot-harvest-11599518473>.

#### IV. IN-PERSON VOTING CAN BE ACCOMPLISHED SAFELY

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Voting for elected representatives is a fundamental tenet of a free society. To fully guarantee these democratic ideals, states must ensure free, fair, and accurate elections, which will only occur when Americans can safely go to the polls on Election Day. While the coronavirus pandemic has altered some aspects of American life, leading U.S. medical experts agree that in-person voting can be done safely during the pandemic. But the pandemic is likely not the gravest impediment that Americans currently face when seeking to vote. Violent left-wing extremists are destroying Democrat-run American cities. Local officials must restore order within their cities so that Americans feel safe leaving their homes to head to the polls in November.

The nation's health experts who have advised President Trump about the coronavirus pandemic agree that Americans can safely vote in-person during the 2020 general election.

- **Dr. Robert Redfield, Director, Centers for Disease Control and Prevention (CDC):** “I think people can be able to social distance and wear masks and with the recommendations we have for hygiene . . . we don’t see that there is going to be a negative impact on your ability to vote from a public health perspective . . . . I know I am going to vote face to face.”<sup>155</sup>
- **Dr. Deborah Birx, Coronavirus Response Coordinator, White House Coronavirus Task Force:** “Well, I can tell you it has been safe for me to go to Starbucks and pick up my order . . . . If you can go into Starbucks in the middle of Texas and Alabama and Mississippi that have very high case rates, then I can’t say that it would be different waiting in line in the polls.”<sup>156</sup>
- **Dr. Anthony Fauci, Director, National Institute of Allergy and Infectious Diseases:** “I think if carefully done, according to the guidelines, there’s no reason that I can see why that not be the case . . . . [I]f you go and wear a mask, if you observe the physical distancing, and don’t have a crowded situation, there’s no reason why you shouldn’t be able to do that.”<sup>157</sup>

In June 2020, the CDC released guidance for polling locations and voters to follow in order to prevent the spread of coronavirus.<sup>158</sup> In part, the guidance sought to articulate the following best practices for in-person voting:

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<sup>155</sup> Dr. Robert Redfield, Twitter (Aug. 31, 2020; 9:07 A.M.), <https://twitter.com/CDCDirector/status/1300419824175263746>.

<sup>156</sup> David Brody, *Dr. Birx says November in-person voting should be as easy as going to Starbucks*, JUST THE NEWS (Aug. 22, 2020), <https://justthenews.com/politics-policy/coronavirus/dr-birx-says-november-person-voting-should-be-easy-going-starbucks>.

<sup>157</sup> Nsikan Akpan, *What Fauci says the U.S. really needs to reopen safely*, NAT’L GEOGRAPHIC (Aug. 13, 2020), <https://www.nationalgeographic.com/science/2020/08/what-anthony-fauci-says-united-states-really-needs-to-reopen-safely-cvd/#close>.

<sup>158</sup> CENTERS FOR DISEASE CONTROL & PREVENTION, CONSIDERATIONS FOR ELECTION POLLING LOCATIONS (2020), <https://www.cdc.gov/coronavirus/2019-ncov/community/election-polling-locations.html>.

- Educating poll workers on when they should stay home and when it is safe to return to work.
- Detailing when and how often cleaning should take place and that adequate supplies are necessary to support healthy hygiene behaviors.
- Recommending the use of masks among all workers and voters.
- Placing reminders to voters of social distancing guidelines with signs and other visual cues.
- Suggesting an increase to the number of polling locations for early voting and on Election Day.
- Recommending a safe distance for voting booths and that physical barriers be used to protect workers and voters when physical distance cannot be maintained.<sup>159</sup>

In fact, states have already successfully held in-person voting during the pandemic. On April 7, 2020, Wisconsin held in-person voting for its primary election. Following the election, Wisconsin’s Secretary for the Department of Health Services stated there were no signs of an increase in coronavirus cases due to the election.<sup>160</sup> *USA Today* conducted a fact check of articles claiming there was a surge in cases because of in-person voting, and found that the increase in cases after the election was due in part to increased testing.<sup>161</sup> In August 2020, the *American Journal of Public Health* published a study that found voting in Wisconsin did not produce a detectable surge in coronavirus cases and concluded that “voting in Wisconsin on April 7 was a low-risk activity.”<sup>162</sup>

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<sup>159</sup> *Id.*

<sup>160</sup> *Health officials: No Evidence of COVID-19 Spike From Spring Election*, WSAU (Apr. 30, 2020), <https://www.newsbreak.com/wisconsin/madison/news/1557061552963/health-officials-no-evidence-of-covid-19-spike-from-spring-election>.

<sup>161</sup> Eric Litke, *No Proof (Yet) of a Post-election “Surge” in Wisconsin Coronavirus Cases*, USA TODAY (Apr. 22, 2020), <https://www.usatoday.com/story/news/factcheck/2020/04/21/fact-check-no-proof-yet-post-election-coronavirus-surge-wisconsin/2997402001/>.

<sup>162</sup> Kathy Leung, *et. al.*, No Detectable Surge in SARS-CoV-2 Transmission Attributable to the April 7, 2020 Wisconsin Election, 110(8), AM. J. PUB. HEALTH (Aug. 2020), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7349432/>.

## **RECOMMENDATIONS**

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### **Voters Should Be Informed that They Can Vote In Person Safely**

1. Congress should immediately convene hearings to explain how states can hold in-person voting safely during the coronavirus pandemic.
2. Local election offices should monitor and implement CDC guidelines for holding safe in-person voting.

### **Local Officials Should Communicate Changes to Voting Procedures to Voters**

3. Democrats must cease their efforts to change voting procedures so close to Election Day. Changing voting procedures so close to Election Day only creates uncertainty, risk, inaccuracies, and delay.
4. Local election offices should ensure voters are aware of absentee ballot application deadlines, when absentee ballots must be postmarked and returned, their designated polling place, and updated safety precautions in place at polling and early voting locations.

### **Voter Registration Rolls Should Be Updated**

5. States that insist upon holding all-mail elections in November should review and update voter rolls prior to November 3 to ensure that mailed ballots are delivered to correct addresses and that voters only receive one ballot.
6. States that insist upon holding all-mail elections in November should maintain accurate voter rolls by facilitating data sharing among states to accurately track changes of address, deaths, and other means by which a voter may become ineligible to vote.

### **Ballot Harvesting Abuse Should End**

7. States that allow third parties to collect and deliver ballots on a voter's behalf should restrict the handling of mail-in ballots to the individual voters, immediate family members, and individuals who reside in the voter's household—and prohibit political operatives and ballot brokers from committing fraud or otherwise mishandling the ballots.
8. States that allow third parties to collect and deliver ballots on a voter's behalf should require the third party to sign a declaration form that indicates the name of the collector and the voter and that the voter has requested assistance from the collector.
9. States that allow third parties to collect and deliver ballots on a voter's behalf should maintain a record of such ballots.

## CONCLUSION

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States have less than 50 days to shore up their election plans. Americans deserve a free, fair, and accurate election—and one in which all Americans have confidence in the results. However, in order to have a free, fair, and accurate election, Democrats must stop pushing dangerous initiatives that will likely increase the risk of election crime and administration error, undermine the integrity of elections, create uncertainty in state election procedures, and ultimately delay election results.

Around the country, Democrats have sought and are seeking election process changes—including eliminating absentee ballot witness and notary requirements, permitting ballot harvesting, and extending mailed-in ballot deadlines. At least 200 lawsuits have been filed across 43 states and U.S. territories.<sup>163</sup> If successful, these changes will inevitably open the door to inaccuracies and errors, will harm the integrity of the election process, and could lead to unmitigated chaos in the November presidential election.

Just like waiting in line at the grocery store or pharmacy, medical experts agree that voting in-person is safe and a “low risk activity” during the coronavirus pandemic.<sup>164</sup> Now the challenge is restoring law and order in communities where Democrat leaders have allowed rioting, looting, and chaos to reign. Democrat lawmakers must stop turning their heads in ambivalence or cowardice to the violence as their cities literally burn to the ground and take action to regain control. Americans must not only feel healthy, but also must feel physically safe, leaving their homes to head to the polls on Election Day.

!!!!!! Dramatically increasing mail-in voting, relaxing election integrity safeguards around mailed-in ballots, and delaying mail-in deadlines will lead to unintended consequences in the 2020 election. What Democrats are trying to achieve around the country is a cynical effort using the coronavirus pandemic to inject uncertainty, inaccuracies, and delay into the electoral process. It has been four years since the last election and the Democrats still refuse to accept that 63 million Americans chose Donald J. Trump as their president. With all of these last-minute changes, Democrats are setting the stage for unprecedented confusion and chaos on and after Election Day.

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<sup>163</sup> Zack Stanton, *The Lawsuits That Could Decide the 2020 Election*, POLITICO (Sep. 3, 2020), <https://www.politico.com/news/magazine/2020/09/03/2020-election-lawsuits-trump-voting-coronavirus-408631>; Alexa Corse and Brent Kendall, *Lawsuits Over Voting Rules Coming Down to the Wire*, WALL ST. J. (Aug. 14, 2020), <https://www.wsj.com/articles/lawsuits-over-voting-rules-coming-down-to-the-wire-11597432606>.

<sup>164</sup> See generally, David Brody, *Dr. Birx says November in-person voting should be as easy as going to Starbucks*, JUST THE NEWS (Aug. 22, 2020), <https://justthenews.com/politics-policy/coronavirus/dr-birx-says-november-person-voting-should-be-easy-going-starbucks>; Kathy Leung, *et. al.*, No Detectable Surge in SARS-CoV-2 Transmission Attributable to the April 7, 2020 Wisconsin Election, 110(8), AM. J. PUB. HEALTH (Aug. 2020), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7349432/>.